

03500.103088

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
	:	Examiner: L. Ben
KOHEI OKAMOTO ET AL.)	
	:	Group Art Unit: 2873
Application No.: 10/573,308)	
	:	Confirmation No. 1990
Int'l Application No. PCT/JP2004/014809)	
	:	
Filed: September 30, 2004)	
	:	
For: PROCESS FOR PRODUCING)	
THREE-DIMENSIONAL	:	
STRUCTURE)	May 8, 2008

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO REQUEST TO RESUBMIT
PREVIOUSLY FILED FORMS PTO-1449

Sir:

Applicants received a Notice of Allowance in the above-captioned application, which was mailed on March 3, 2008. Accompanying this Notice of Allowance were copies of the PTO-1449 forms submitted by Applicants on March 24, 2006. Two non-patent literature (NPL) documents listed on these PTO-1449 forms were lined through, indicating that they were not considered because the listing did not indicate the month of their publication.

Applicants' undersigned attorney contacted the Examiner and requested an explanation as to why the two NPL documents were not indicated as having been considered. In particular, the NPL documents in question were (i) cited in the International Search Report, which, along with the NPL documents, was present in the national stage file (see Form PCT/DO/EO/903 referencing the Search Report and the Information Disclosure

Statement); and (ii) published before the international filing date of the subject U.S. national stage application, as indicated by the year of publication provided on the PTO-1449 forms. Therefore, in accordance with M.P.E.P. §§ 609, 609.03 and 609.04(a), consideration of the cited NPL documents was required. In response, the Examiner advised the undersigned that the NPL documents were crossed out on the PTO-1449 forms due to clerical issues related to the publication of the patent. To simplify matters, the Examiner requested the undersigned to resubmit the PTO-1449 forms providing the month of publication of the NPL documents so that these forms could be initialed in their entirety.

As requested, attached hereto are the originally submitted PTO-1449 forms, which have been modified to include the month of publication of all NPL documents, as well as the U.S. application number and Group Art Unit that have since been assigned to this case.

Since the March 3, 2008 Notice of Allowance was the first action on the merits in the subject application, this is the first opportunity for Applicants to address the issue related to the PTO-1449 forms and to reply to the Examiner's request for modified PTO-1449 forms. This, coupled with the fact that consideration of the above-noted NPL documents was required based on their original submission, clearly shows that the present submission is not a "failure to engage" under 37 C.F.R. § 1.704. Therefore, no patent term adjustment reduction should be associated with this submission.

CONCLUSION

It is respectfully requested that the Examiner initial all documents on the attached PTO-1449 forms and return the same confirming that all documents listed thereon have been considered.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address given below.

Respectfully submitted,

/Jason M. Okun/
Jason M. Okun
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FORM PTO 1449 (<i>modified</i>) U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE LIST OF REFERENCES CITED BY APPLICANT(S) (Use several sheets if necessary)				ATTY DOCKET NO. 03500.103088		APPLICATION NO. 10/573,308	
				APPLICANT Kohei Okamoto et al.			
				FILING DATE September 30, 2004		GROUP 2873	
U.S. PATENT DOCUMENTS							
*EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
FOREIGN PATENT DOCUMENTS							
		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION YES/NO/ OR ABSTRACT
OTHER DOCUMENT(S) (Including Author, Title, Date, Pertinent Pages, Etc.)							
		Xuan-Ming Duan et al., "Micron/Nanofabrication of Two and Three Dimensional Structures by Two-Photon Polymerization," <u>Proceedings of the 2003 Third IEEE Conference on Nanotechnology</u>, pp. 498-501 (August 2003).					
		Hong-Bun Sun et al., "Three-Dimensional Photonic Crystal Structures Achieved with Two-Photon-Absorption Photopolymerization of Resin," 74(6) <u>Appl. Phys. Lett.</u> 786-88 (February 1999).					
EXAMINER				DATE CONSIDERED			

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.